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House Bill 4431 (Substitute H-2 as passed by the House)
Sponsor: Representative Lorence Wenke
House Committee: Judiciary
Senate Committee: Judiciary

Date Completed: 9-1-06

CONTENT

The bill would amend the Michigan Penal Code to include murder committed in the perpetration of torture or aggravated stalking among the acts that constitute first-degree murder.

Under the Code, a person is guilty of first-degree murder and must be punished by life imprisonment if he or she commits murder during the perpetration or attempted perpetration of certain crimes, including robbery, first-degree child abuse, a major controlled substance offense, kidnapping, or first-, second-, or third-degree criminal sexual conduct. The bill would include torture under Section 85 of the Code, and aggravated stalking under Section 411i.

Under Section 85, torture is committed when a person, with the intent to cause cruel or extreme physical or mental pain and suffering, inflicts great bodily injury or severe mental pain or suffering upon another person within his or her custody or physical control.

Under Section 411i, a person who engages in stalking is guilty of aggravated stalking if the violation involves any of the following circumstances:

- At least one of the actions constituting the offense is in violation of a restraining order and the individual has received actual notice of that restraining order, or at least one of the actions is in violation of an injunction or preliminary injunction.
- At least one of the actions constituting the offense is in violation of a condition of probation, a condition of parole, a condition of pretrial release, or a condition of release on bond pending appeal.
- The course of conduct includes the making of at least one credible threat against the victim, a member of the victim's family, or another individual living in the same household as the victim.
- The person previously has been convicted of stalking or aggravated stalking.

MCL 750.316

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State government. There are no data to indicate how many offenders would be convicted of committing murder while perpetrating torture or aggravated stalking. In 2003, 187 offenders were convicted of first-degree murder, including 61 for felony murder, and 230 offenders were convicted of

aggravated stalking. There are no data on torture convictions because Section 85 has been effective only since March 1, 2006. To the extent that the bill would result in more sentences to life in prison without parole for offenders who otherwise would have been discharged or paroled, the State would incur the cost of incarceration in a State facility at an average annual cost of \$30,000. Additional penal fine revenue would benefit public libraries.

Fiscal Analyst: Lindsay Hollander

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.